

MDR Tracking Number: M5-04-0015-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 8-29-03.

The IRO reviewed therapeutic exercises, myofascial release, therapeutic activities, special supplies, ROM, muscle testing, office visits, DME, and a pump for a water-circulating pad from 9-16-02 through 6-2-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 12-30-03, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
11/19/02	97110 x 2 97530 x 2	\$80.00 \$70.00	\$0.00	No EOB	\$35.00 ea 15 min \$35.00 ea 15 min	96 MFG Med GR I A 9 b and Rule 133.307(g)(3)	Daily note submitted for code 97530 does not support delivery of service; therefore reimbursement not recommended. 97110: see RATIONALE below.
5/22/03	97110 x 2 97001 x 2	\$80.00 \$212.00	\$0.00	No EOB	\$35.00 ea 15 min not listed in the 96 MFG	96 MFG Med GR I A 9 b; Rule 133.307(g)(3) and "TWCC and the Importance of Proper Coding"	Code 97001 is not valid per the 96 MFG; therefore, reimbursement not recommended. 97110: see RATIONALE below.

TOTAL	\$442.00	\$0.00	The requestor is not entitled to reimbursement.
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**RATIONALE:** Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes “one-on-one”. Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division (MRD) has reviewed the matters in light of the Commission requirements for proper documentation.

The MRD declines to order payment for code 97110 because the daily notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.

This Decision is hereby issued this 10<sup>th</sup> day of February 2004.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

December 29, 2003  
**Amended march 24,2004**

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

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IRO #: 5251

\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker’s Compensation Commission has assigned this case to \_\_\_ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

### CLINICAL HISTORY

The records in this case indicate that this patient was being treated for a thoraco-lumbar injury which was sustained at his workplace. Records do not give a method of injury. The treatment plan consisted of extensive active treatment from after the \_\_\_ injury date through the date of the disputed services, ending June 2, 2003. Records in this case are extensive but do not show any form of significant improvement during the disputed period. There are no diagnostic test results in the notes and no reports from a Designated Doctor are presented, if such a doctor has been utilized by the TWCC.

### DISPUTED SERVICES

The carrier has denied the medical necessity of therapeutic exercises, myofascial release, therapeutic activities, special supplies, range of motion measurements, limb muscle testing, office visits, DME, and a pump for a water circulating pad due to a lack of medical necessity.

### DECISION

The reviewer agrees with the prior adverse determination.

### BASIS FOR THE DECISION

The notes presented indicate high levels of treatment for this patient's condition, yet there is no indication as to what this patient's diagnosis and extent of injury is. Canned notes are used throughout the treatment program, which is acceptable, but when the notes contain the same catch phrases from date to date and indicate that the services rendered had not been considered from date to date, but rather as a part of an overall approach to the care rendered, it loses credibility with this reviewer. Regardless of the poor documentation of this case, the treatment was not demonstrated to be working for this patient. Especially considering that several dates of service were "daily care", it would seem difficult to believe that this treatment was therapeutic in nature when looking at a lack of outcomes. No MRI/CT or electrodiagnostic studies were performed on this case and there was not indication that the care rendered was of therapeutic value to this patient. As a result, I would find that the care rendered was reasonable and necessary.

\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_ has made no determinations regarding benefits available under the injured employee's policy

As an officer of \_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,